

1 Ramon Rossi Lopez (admitted *pro hac vice*)
2 (CA Bar No. 86361)
LOPEZ McHUGH LLP
3 100 Bayview Circle, Suite 5600
Newport Beach, CA 92660
rlopez@lopezmchugh.com

4
5 Mark S. O'Connor (011029)
BEUS GILBERT PLLC
6 701 N 44th Street
Phoenix, AZ 85008
7 Telephone: (480) 429-3019
moconnor@beusgilbert.com

8 *Attorneys for Plaintiffs*

9 James R. Condo (#005867)
Kristine L. Gallardo (033975)
10 SNELL & WILMER L.L.P.
One Arizona Center
11 400 E. Van Buren, Suite 1900
Phoenix, AZ 85004-2202
12 Telephone: 602.382.6000
Facsimile: 602.382.6070
jcondo@swlaw.com
kgallardo@swlaw.com

13
14 Richard B. North, Jr. (admitted *pro hac vice*)
Georgia Bar No. 545599
15 Matthew B. Lerner (admitted *pro hac vice*)
Georgia Bar No. 446986
16 NELSON MULLINS RILEY &
SCARBOROUGH LLP
17 201 17th Street, NW / Suite 1700
Atlanta, GA 30363
18 Telephone: 404.322.6000
Facsimile: 404.322.6050
richard.north@nelsonmullins.com
matthew.lerner@nelsonmullins.com

19
20 *Attorneys for Defendants C. R. Bard, Inc. and*
Bard Peripheral Vascular, Inc.

21
22 UNITED STATES DISTRICT COURT

23 DISTRICT OF ARIZONA

24 IN RE: Bard IVC Filters Products
Liability Litigation,

25 No. 2:15-MD-02641-DGC

26 **THE PARTIES' AMENDED JOINT
REPORT ON THE SETTLEMENT
STATUS OF CASES**

27
28

1 Pursuant to Case Management Order No. 42 (Doc. 164343), the parties submit this
2 amended monthly report concerning the settlement status of cases pending in this MDL.
3 The amended report deletes one case that was inadvertently included in Section "I" of the
4 report filed on September 3, 2019 (Doc. 20042).

5 **I. TRACK 1 CASES**

6 On July 26th, the parties provided the Court with a list of cases that have been
7 resolved in principle pursuant to an executed release or term sheet (Doc. 19798-1). The
8 parties have minimal changes to the Track 1 list.

9 The following cases have been identified as erroneously listed on Track 1 and should
10 now be listed on Track 2:

- 11
- 12 • Lisa Smullen v. C. R. Bard, Inc., et al. (CV-15-01900-PHX-DGC)
 - 13 • Casey Wyatt v. C. R. Bard et al. (CV-15-01628-PHX-DGC)
 - 13 • Christine Lorthe v. C. R. Bard et al. (CV-15-02446-PHX-DGC)

14 The following case was also listed erroneously on Track 1; however, Plaintiff's
15 counsel as recently learned that the Plaintiff has passed away.

- 16
- 17 • Maureen L. Wallace v. C. R. Bard, Inc. and Bard Peripheral Vascular, Inc., United
17 States District Court, District Court of Arizona, Phoenix Division, CV-16-00392-
PHX-DGC

18 For the balance of the cases on Track 1 the parties are continuing their efforts to
19 finalize the settlements.

20 **II. TRACK 2 CASES**

21 On July 26th, the parties provided the Court with a list of cases that are the subject
22 of substantive settlement negotiations, with a likelihood of ultimately settling (Doc. 19798-
23 2). One or more of the parties have concluded that further settlement efforts in some of
24 those cases are not warranted at this time and that the cases should move to Track 3. Those
25 cases are listed in Schedule "A" (cases proposed for remand by the JPML) and Schedule
26 "B" (direct-filed cases appropriate for transfer to the designated jurisdiction). Settlement
27 discussions are continuing in the remaining cases previously identified in Track 2. Since
28 the date of the last report, the Defendants' attorneys have collected medical records for over

1 2800 cases that are currently in Track 2, and have had meetings and discussions with
2 multiple attorneys representing the Plaintiffs, including a mediation concerning hundreds
3 of Track 2 cases. Those discussions are ongoing, and the parties remain hopeful that many
4 – if not all – of those cases will ultimately be settled before November 1, 2019, when all
5 cases for which neither a release nor term sheet has been executed will be recommended to
6 the JPML for remand or will be transferred under §1404(a) in accordance with CMO No.
7 42.

8 **III. TRACK 3 CASES**

9 In Case Management Order No. 42, the Court stated that “[a]ny case in either track
10 may be removed from the track and from this MDL upon counsel for either side concluding
11 that further settlement efforts in the case are not warranted.” (Doc. 16343 at 6). Counsel
12 for one or both sides has made that determination regarding a number of cases.

13 **A. Cases Transferred into the MDL by the JPML**

14 Those cases originally transferred to this MDL by the JPML, which are therefore
15 eligible for remand by the Panel, are listed in Schedule “A”.

16 **B. Cases Directly Filed in this Court**

17 Those cases that were direct-filed in this Court and are ripe for transfer to the
18 designated districts are listed in Schedule “B”. This schedule also notes those cases where
19 subject matter jurisdiction does not exist. The parties will file a joint report on September
20 6, 2019: (1) stating what should be done with the Track 3 cases that lack subject matter
21 jurisdiction and (2) addressing the subject matter jurisdiction issues in *Vollick*, CV-17-2588,
22 *Dukes*, CV-19-1348, and *Fuller*, CV-18-1414. (Doc. 19881). Unless otherwise noted, the
23 jurisdiction identified for transfer is the one listed in the short form complaint. This
24 schedule further identifies those cases where a complete Profile Form has not been served.
25 The Defendants’ respectfully request that the Court enter an order requiring those Plaintiffs
26 who have not served a complete Profile Form to do so within twenty (20) days.

27

28

1 The Defendants also request that the remand/transfer order for these cases
2 specifically preserve their right to challenge venue and personal jurisdiction upon remand,
3 as the Court did in the previous remand/transfer order (Doc. 19899).

4 Respectfully submitted, this 4th of September, 2019.

5 LOPEZ McHUGH, LLP

NELSON MULLINS RILEY &
SCARBOROUGH LLP

7 By: s/ Ramon Rossi Lopez

Ramon Rossi Lopez
(admitted *pro hac vice*)
CA Bar No. 86361
LOPEZ MCHUGH LLP
100 Bayview Circle, Suite 5600
Newport Beach, California 92660

Mark S. O'Connor (011029)
BEUS GILBERT PLLC
701 N 44th Street
Phoenix, Arizona 85008

14 Attorneys for Plaintiffs

By: s/ Richard B. North

Richard B. North, Jr. (admitted *pro hac vice*)
Georgia Bar No. 545599
Matthew B. Lerner (admitted *pro hac vice*)
Georgia Bar No. 446986
NELSON MULLINS RILEY &
SCARBOROUGH LLP
201 17th Street, NW / Suite 1700
Atlanta, GA 30363

James R. Condo (005867)
Kristine L. Gallardo (033975)
SNELL & WILMER L.L.P.
One Arizona Center
400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202

16 Attorneys for C. R. Bard, Inc. and Bard
Peripheral Vascular, Inc.

22 **CERTIFICATE OF SERVICE**

23 I hereby certify that on September 4, 2019, the foregoing was electronically filed
24 with the Clerk of Court using the CM/ECF system which will automatically send email
25 notification of such filing to all attorneys of record.

27 /s/ Richard B. North